



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2014 REGULAR SESSION

SENATE BILL NO. 7

THURSDAY, JANUARY 16, 2014

The following bill was reported to the House from the Senate and ordered to be printed.

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY L. Adler

1 AN ACT relating to nurses.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) There is hereby established the Collaborative Prescribing Agreement Joint*
6 *Advisory Committee, designed to serve in an advisory role regarding the*
7 *"Collaborative Agreement for the Advanced Practice Registered Nurse's*
8 *Prescriptive Authority for Nonscheduled Legend Drugs" (CAPA-NS), as*
9 *authorized under subsection (8) of Section 2 of this Act. The committee shall be*
10 *composed of six (6) members selected as follows:*

11 *(a) Three (3) members shall be advanced practice registered nurses who*
12 *currently prescribe nonscheduled legend drugs, each appointed by the*
13 *Kentucky Board of Nursing; and*

14 *(b) Three (3) members shall be physicians who currently have or previously*
15 *had a signed CAPA-NS with an advanced practice registered nurse who*
16 *prescribes nonscheduled legend drugs, each appointed by the Kentucky*
17 *Board of Medical Licensure.*

18 *(2) The committee may make recommendations to the Kentucky Board of Nursing*
19 *and the Kentucky Board of Medical Licensure about the CAPA-NS agreements*
20 *and shall perform other duties as required by this section. The committee may*
21 *recommend a common CAPA-NS form for use by all advanced practice*
22 *registered nurses and all physicians in Kentucky who enter into a CAPA-NS. The*
23 *common CAPA-NS form shall only be required for CAPA-NS agreements if both*
24 *the Kentucky Board of Nursing and the Kentucky Board of Medical Licensure*
25 *approve the same version of the common CAPA-NS form. If those boards do not*
26 *both approve the same version of the common CAPA-NS form, advanced practice*
27 *registered nurses and physicians may use their own CAPA-NS forms as*

1 authorized by Section 2 of this Act.

2 (3) (a) An advanced practice registered nurse may request assistance from the
3 committee and the Kentucky Board of Nursing to identify any physicians
4 who are available to enter into the CAPA-NS in a non-emergency situation
5 if the advanced practice registered nurse is not able to locate a physician to
6 sign a CAPA-NS.

7 (b) If the committee and the Kentucky Board of Nursing receive a request from
8 an advanced practice registered nurse under this subsection, both shall
9 immediately forward the request to the Kentucky Board of Medical
10 Licensure, which shall provide the committee and the Kentucky Board of
11 Nursing with the names, contact information, and any fee requirements
12 provided by any physicians who are available to enter into the CAPA-NS.
13 The Kentucky Board of Nursing and the committee shall make those
14 physician names, contact information, and any fee requirements available
15 to the requesting advanced practice registered nurse.

16 (c) Beginning from the date the requesting advanced practice registered nurse
17 first receives the physician information, whether from the committee or the
18 Kentucky Board of Nursing, the requesting advanced practice registered
19 nurse shall have sixty (60) days to sign a CAPA-NS agreement with a
20 physician. If the requesting advanced practice registered nurse is unable to
21 sign a CAPA-NS within the sixty (60) days, the committee shall furnish the
22 requesting advanced practice registered nurse with a physician to sign a
23 CAPA-NS. The physician shall be qualified in the same or a similar
24 specialty to the requesting advanced practice registered nurse and shall not
25 charge a fee to sign the CAPA-NS. The advanced practice registered nurse
26 may prescribe under this CAPA-NS until that advanced practice registered
27 nurse signs a CAPA-NS with a different physician as authorized by Section

1 2 of this Act.

2 (4) (a) An advanced practice registered nurse may request assistance from the
3 committee and the Kentucky Board of Nursing to identify any physicians
4 who are available to enter into the CAPA-NS in an emergency situation
5 where a collaborating physician is either unavailable or suddenly rescinds
6 from a CAPA-NS with the advanced practice registered nurse who is
7 providing care in an established practice, for any reason other than:

8 1. A disciplinary action against the advanced practice registered nurse
9 that is directly related to prescribing or patient safety; or

10 2. The collaborating physician has filed a complaint with evidence
11 against the advanced practice registered nurse with the Kentucky
12 Board of Nursing related to prescribing or patient safety.

13 (b) While the advanced practice registered nurse is unable to locate a physician
14 to sign the CAPA-NS in an emergency situation and after requesting
15 assistance from the committee and the Kentucky Board of Nursing, the
16 advanced practice registered nurse may prescribe as if he or she is
17 prescribing with a CAPA-NS.

18 (c) If the committee and the Kentucky Board of Nursing receive a request from
19 an advanced practice registered nurse under this subsection, both shall
20 immediately forward the request to the Kentucky Board of Medical
21 Licensure. The Kentucky Board of Medical Licensure shall provide the
22 committee and the Kentucky Board of Nursing with the names, contact
23 information, and any fee requirements provided by any physicians who are
24 available to enter into a CAPA-NS. The Kentucky Board of Nursing and the
25 committee shall make those physician names, contact information, and any
26 fee requirements available to the requesting advanced practice registered
27 nurse.

- 1 (d) Beginning from the date the requesting advanced practice registered nurse
2 first receives the physician information, whether from the committee or the
3 Kentucky Board of Nursing, the requesting advanced practice registered
4 nurse shall have thirty (30) days to sign a CAPA-NS agreement with a
5 physician. If no CAPA-NS is signed at the end of the thirty (30) days, the
6 advanced practice registered nurse shall cease to prescribe until a CAPA-
7 NS is signed. Once a new CAPA-NS goes into effect, the advanced practice
8 registered nurse shall only prescribe within the terms of the new CAPA-NS
9 until that CAPA-NS is no longer in effect.
- 10 (5) If the committee receives a complaint about the prescribing, fee requirements, or
11 other activities of an advanced practice registered nurse or physician under a
12 CAPA-NS, the committee shall not discuss or review the complaint or any actions
13 of any advanced practice registered nurse or physician, but shall immediately
14 forward the complaint to the licensing board that has jurisdiction over the person
15 who is the subject of the complaint.
- 16 (6) The Kentucky Board of Nursing and the Kentucky Board of Medical Licensure
17 shall each maintain sole jurisdiction over their respective licensees and their
18 licensees' practice.
- 19 (7) The Kentucky Board of Nursing and the Kentucky Board of Medical Licensure
20 shall each be responsible for and have exclusive authority over their respective
21 members appointed to the committee. Each board may determine its own process
22 for the appointment, removal, term length, or any other procedural matter
23 relating to its members appointed to the committee.
- 24 (8) The committee shall be attached to the Kentucky Board of Nursing for
25 administrative purposes. The Kentucky Board of Nursing shall be responsible for
26 the expenses of its members and for administering the committee. The Kentucky
27 Board of Medical Licensure shall be responsible for the expenses of its members.

The location for committee meetings shall alternate between the facilities of the Kentucky Board of Nursing and the facilities of the Kentucky Board of Medical Licensure.

→Section 2. KRS 314.042 is amended to read as follows:

- (1) An applicant for licensure to practice as an advanced practice registered nurse shall file with the board a written application for licensure and submit evidence, verified by oath, that the applicant has completed an approved organized postbasic program of study and clinical experience; has fulfilled the requirements of KRS 214.615(1); is certified by a nationally established organization or agency recognized by the board to certify registered nurses for advanced practice registered nursing; and is able to understandably speak and write the English language and to read the English language with comprehension.
- (2) The board may issue a license to practice advanced practice registered nursing to an applicant who holds a current active registered nurse license issued by the board or holds the privilege to practice as a registered nurse in this state and meets the qualifications of subsection (1) of this section. An advanced practice registered nurse shall be:
 - (a) Designated by the board as a certified nurse anesthetist, certified nurse midwife, certified nurse practitioner, or clinical nurse specialist; and
 - (b) Certified in a least one (1) population focus.
- (3) The applicant for licensure or renewal thereof to practice as an advanced practice registered nurse shall pay a fee to the board as set forth in regulation by the board.
- (4) An advanced practice registered nurse shall maintain a current active registered nurse license issued by the board or hold the privilege to practice as a registered nurse in this state and maintain current certification by the appropriate national organization or agency recognized by the board.
- (5) Any person who holds a license to practice as an advanced practice registered nurse

1 in this state shall have the right to use the title "advanced practice registered nurse"
 2 and the abbreviation "APRN." No other person shall assume the title or use the
 3 abbreviation or any other words, letters, signs, or figures to indicate that the person
 4 using the same is an advanced practice registered nurse. No person shall practice as
 5 an advanced practice registered nurse unless licensed under this section.

6 (6) Any person heretofore licensed as an advanced practice registered nurse under the
 7 provisions of this chapter who has allowed the license~~[license]~~ to lapse may be
 8 reinstated on payment of the current fee and by meeting the provisions of this
 9 chapter and regulations promulgated by the board pursuant to the provisions of KRS
 10 Chapter 13A.

11 (7) The board may authorize a person to practice as an advanced practice registered
 12 nurse temporarily and pursuant to applicable regulations promulgated by the board
 13 pursuant to the provisions of KRS Chapter 13A if the person is awaiting the results
 14 of the national certifying examination for the first time or is awaiting licensure by
 15 endorsement. A person awaiting the results of the national certifying examination
 16 shall use the title "APRN Applicant" or "APRN App."

17 (8) (a) Except as authorized by Section 1 of this Act and subsection (9) of this
 18 section, before an advanced practice registered nurse engages in the
 19 prescribing or dispensing of nonscheduled legend drugs as authorized by KRS
 20 314.011(8), the advanced practice registered nurse shall enter into a written
 21 "Collaborative Agreement for the Advanced Practice Registered Nurse's
 22 Prescriptive Authority for Nonscheduled Legend Drugs" (CAPA-NS) with a
 23 physician that defines the scope of the prescriptive authority for nonscheduled
 24 legend drugs.

25 (b) The advanced practice registered nurse shall notify the Kentucky Board of
 26 Nursing of the existence of the CAPA-NS and the name of the collaborating
 27 physician and shall, upon request, furnish to the board or its staff a copy of

1 the completed CAPA-NS. The Kentucky Board of Nursing shall notify the
 2 Kentucky Board of Medical Licensure that a CAPA-NS exists and furnish
 3 the collaborating physician's name.

4 (c) The CAPA-NS shall be in writing and signed by both the advanced practice
 5 registered nurse and the collaborating physician. A copy of the completed
 6 collaborative agreement shall be available at each site where the advanced
 7 practice registered nurse is providing patient care.

8 (d) The CAPA-NS shall describe the arrangement for collaboration and
 9 communication between the advanced practice registered nurse and the
 10 collaborating physician regarding the prescribing of nonscheduled legend
 11 drugs by the advanced practice registered nurse.

12 (e) The advanced practice registered nurse who is prescribing nonscheduled
 13 legend drugs and the collaborating physician shall be qualified in the same
 14 or a similar specialty.

15 (f) The CAPA-NS is not intended to be a substitute for the exercise of
 16 professional judgment by the advanced practice registered nurse or by the
 17 collaborating physician.

18 (g) The CAPA-NS shall be reviewed and signed by both the advanced practice
 19 registered nurse and the collaborating physician and may be rescinded by
 20 either party upon written notice via registered mail to the other party, the
 21 Kentucky Board of Nursing, and the Kentucky Board of Medical Licensure.

22 (9) (a) Before an advanced practice registered nurse may discontinue or be exempt
 23 from a CAPA-NS required under subsection (8) of this section, the
 24 advanced practice registered nurse shall have completed four (4) years of
 25 prescribing as a nurse practitioner, clinical nurse specialist, nurse midwife,
 26 or as a nurse anesthetist. For nurse practitioners and clinical nurse
 27 specialists, the four (4) years of prescribing shall be in a population focus of

adult-gerontology, pediatrics, neonatology, family, women's health, acute care, or psychiatric-mental health.

(b) After four (4) years of prescribing with a CAPA-NS in collaboration with a physician:

1. An advanced practice registered nurse whose license is in good standing at that time with the Kentucky Board of Nursing and who will be prescribing nonscheduled legend drugs without a CAPA-NS shall notify that board that the four (4) year requirement has been met and that he or she will be prescribing nonscheduled legend drugs without a CAPA-NS;

2. The advanced practice registered nurse will no longer be required to maintain a CAPA-NS and shall not be compelled to maintain a CAPA-NS as a condition to prescribe after the four (4) years have expired, but an advanced practice registered nurse may choose to maintain a CAPA-NS indefinitely after the four (4) years have expired; and

3. If the advanced practice registered nurse's license is not in good standing, the CAPA-NS requirement shall not be removed until the license is restored to good standing.

(c) An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement is exempt from the CAPA-NS requirement if the advanced practice registered nurse:

1. Has met the prescribing requirements in a state that grants independent prescribing to advanced practice registered nurses; and

2. Has been prescribing for at least four (4) years.

(d) An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement who had a collaborative prescribing

agreement with a physician in another state for at least four (4) years is exempt from the CAPA-NS requirement.

(e) After the effective date of this Act:

1. An advanced practice registered nurse whose license is in good standing at that time with the Kentucky Board of Nursing and who will be prescribing nonscheduled legend drugs without a CAPA-NS shall notify that board that the four (4) year requirement has been met and that he or she will be prescribing nonscheduled legend drugs without a CAPA-NS;

2. An advanced practice registered nurse who has maintained a CAPA-NS for four (4) years or more will no longer be required to maintain a CAPA-NS and shall not be compelled to maintain a CAPA-NS as a condition to prescribe after the four (4) years have expired, but an advanced practice registered nurse may choose to maintain a CAPA-NS indefinitely after the four (4) years have expired; and

3. An advanced practice registered nurse who has maintained a CAPA-NS for less than four (4) years shall be required to continue to maintain a CAPA-NS until the four (4) year period is completed, after which the CAPA-NS will no longer be required.

(10) (a) Before an advanced practice registered nurse engages in the prescribing of Schedules II through V controlled substances as authorized by KRS 314.011(8), the advanced practice registered nurse shall enter into a written "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances" (CAPA-CS) with a physician that defines the scope of the prescriptive authority for controlled substances.

(b)(a) The advanced practice registered nurse shall notify the Kentucky Board

1 of Nursing of the existence of the CAPA-CS and the name of the
 2 collaborating physician and shall, upon request, furnish to the board or its staff
 3 a copy of the completed CAPA-CS. The Kentucky Board of Nursing shall
 4 notify the Kentucky Board of Medical Licensure that a CAPA-CS exists and
 5 furnish the collaborating physician's name.

6 ~~(c)~~~~(b)~~ The CAPA-CS shall be in writing and signed by both the advanced
 7 practice registered nurse and the collaborating physician. A copy of the
 8 completed collaborative agreement shall be available at each site where the
 9 advanced practice registered nurse is providing patient care.

10 ~~(d)~~~~(e)~~ The CAPA-CS shall describe the arrangement for collaboration and
 11 communication between the advanced practice registered nurse and the
 12 collaborating physician regarding the prescribing of controlled substances by
 13 the advanced practice registered nurse.

14 ~~(e)~~~~(d)~~ The advanced practice registered nurse who is prescribing controlled
 15 substances and the collaborating physician shall be qualified in the same or a
 16 similar specialty.

17 ~~(f)~~~~(e)~~ The CAPA-CS is not intended to be a substitute for the exercise of
 18 professional judgment by the advanced practice registered nurse or by the
 19 collaborating physician.

20 ~~(g)~~~~(f)~~ Before engaging in the prescribing of controlled substances, the
 21 advanced practice registered nurse shall:

- 22 1. Have been licensed to practice as an advanced practice registered nurse
 23 for one (1) year with the Kentucky Board of Nursing; or
- 24 2. Be nationally certified as an advanced practice registered nurse and be
 25 registered, certified, or licensed in good standing as an advanced
 26 practice registered nurse in another state for one (1) year prior to
 27 applying for licensure by endorsement in Kentucky.

1 ~~(h)(g)~~ Prior to prescribing controlled substances, the advanced practice
2 registered nurse shall obtain a Controlled Substance Registration Certificate
3 through the U.S. Drug Enforcement Agency.

4 ~~(i)(h)~~ The CAPA-CS shall be reviewed and signed by both the advanced
5 practice registered nurse and the collaborating physician and may be rescinded
6 by either party upon written notice via registered mail to the other party, the
7 Kentucky Board of Nursing, and the Kentucky Board of Medical Licensure.

8 ~~(j)(i)~~ The CAPA-CS shall state the limits on controlled substances which may
9 be prescribed by the advanced practice registered nurse, as agreed to by the
10 advanced practice registered nurse and the collaborating physician. The limits
11 so imposed may be more stringent than either the schedule limits on
12 controlled substances established in KRS 314.011(8) or the limits imposed in
13 regulations promulgated by the Kentucky Board of Nursing thereunder.

14 ~~(11)(10)~~ Nothing in this chapter shall be construed as requiring an advanced practice
15 registered nurse designated by the board as a certified nurse anesthetist to enter into
16 a collaborative agreement with a physician, pursuant to this chapter or any other
17 provision of law, in order to deliver anesthesia care.

Katie Kratz Stine
President of Senate

Greg O. St-6
Speaker-House of Representatives

Attest: Debra Pol-Holiday
Chief Clerk of Senate

Approved Anthony B. Burch
Governor

Date 2/13/14